United Nations CCPR/C/SR.3562

International Covenant on Civil and Political Rights

Distr.: General
2 November 2018

Original: English

Human Rights Committee
124th session

Summary record (partial)* of the 3562nd meeting
Held at the Palais des Nations, Geneva, on Tuesday, 30 October 2018, at 3 p.m.

Chair: Mr. Shany

Contents

Informal meeting with States parties to the Covenant and its Optional Protocols

* No summary record was prepared for the rest of the meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.18-18272 (E) 021118 021118

1818272

Please recycle

The meeting was called to order at 3.05 p.m.

Informal meeting with States parties to the Covenant and its Optional Protocols

1. **The Chair** said that over the course of the year the Committee had met for 15 weeks, both in plenary and in pre-sessional working groups, and had reviewed an average of 6 States parties and 30 individual communications per session. During the current session it had, inter alia, endorsed a statement on human rights defenders formulated by representatives of all treaty bodies, and it was due to adopt new rules of procedure later that week. In 2019, pursuant to General Assembly resolution 68/268, it planned to increase its total meeting time by an additional three weeks.

2. Recommendations made by the Committee had led to tangible progress in a number of States parties. Despite the many difficulties human rights faced across the world, the Committee's constructive engagement and its ability to offer a professional, non-political setting for protecting and promoting human rights constituted an effective avenue for change.

3. In 2016, the Committee had adopted a simplified reporting procedure based on States parties' replies to lists of issues prior to reporting, and it currently offered that procedure to all States parties who had already submitted an initial report. To date, 55 States had availed themselves of the new procedure which, the Committee believed, considerably alleviated reporting burdens without adversely affecting the quality of the dialogue. He encouraged all States that had not yet opted for the procedure to do so.

4. In addition, the Committee had acted to increase its effectiveness and improve the alignment of its practices with those of other treaty bodies. Measures taken included the development of a procedure to deal with repetitive communications, guidelines for decisions on remedies, and modalities for working in chambers. In addition, the Committee had reviewed the possibility of using videoconferencing facilities, reduced follow-up reporting to one round, except in exceptional cases, and moved to limit paperwork related to the review of individual communications. With the Committee on Economic, Social and Cultural Rights, it planned to embark on a pilot project for developing coordinated lists of issues, conducting back-to-back reviews of States and aligning concluding observations.

5. With a view to addressing the problem of non-reporting and late reporting, the Committee had, for each session, developed a policy of preparing at least one list of issues in the absence of a report and conducting a review of at least one non-reporting or late reporting State. In most cases, the practice had resulted in States parties replying to the list of issues and participating in the dialogue, while on two occasions the Committee had decided to consider the written replies of the State as a substitute for the report. Pursuant to General Assembly resolution 68/268, developing States could seek technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR) on drafting reports.

6. The main constraint faced by the Committee was the lack of resources. In particular, without a significant increase in support, its ability to tackle the growing backlog of individual communications would continue to be seriously compromised. He urged all States parties to help in that regard by finding a realistic funding formula for the next biennial budget and advocating for a more sustainable treaty body system during the review of that system scheduled to take place in 2020. In the short term, he hoped that States would consider providing earmarked support to the Petitions Unit in the form of junior professional officers or general temporary assistants.

7. One major achievement of the current session had been the adoption of the new general comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life (CCPR/C/GC/36). In the course of the drafting process, the Committee had been careful to give serious consideration to all written observations submitted by States parties. The new general comment, which represented an important contribution to international law, enshrined the right to life with dignity and underscored the obligation of States to protect that right, including from general conditions in society such as domestic violence, environmental degradation and extreme poverty. It also

reaffirmed the duty to investigate allegations of arbitrary deprivation of life and called on countries that had not abolished the death penalty to move towards abolition.

8. **Mr. Heyns**, accompanying his remarks with a digital slide presentation, said that the Committee, like other treaty bodies, was engaged in constant efforts to ensure that its processes were as efficient as possible. As part of those efforts, it had recently undertaken a review of the simplified reporting procedure, which had been introduced as a pilot project in 2010. Under the standard procedure, three primary documents were exchanged before the dialogue could take place: the report of the State party, the list of issues produced by the Committee and the replies to the list of issues by the State party. Under the simplified procedure, the number of documents had been reduced to two: the list of issues prior to reporting, which was produced by the Committee and already had a focus on the forthcoming dialogue, and the replies to the list of issues by the State party.

9. The review of the simplified procedure had involved desk research, enquiries to other treaty bodies, interviews with officials involved in the reporting process and questionnaires to States, human rights institutions and non-governmental organizations (NGOs). What had emerged was that the use of the simplified procedure varied considerably, particularly as some treaty bodies had introduced it only recently. As far as the Committee was concerned, it had received its first replies to lists of issues prior to reporting in 2013 and, since then, had seen a steady increase in the number of reports submitted under the simplified procedure.

10. The review had shown that the simplified procedure was a major improvement. It decreased overall workload because the documents produced were fewer, more concise and better focused. At the same time, it improved the quality of the reporting process because the information that went on to become the subject of the interactive dialogue was of greater relevance. The recommendations emerging from the review were that the simplified reporting procedure should be offered as a permanent option to all States parties and that a campaign should be launched to encourage States to use it. In addition, the Committee should seek to align its practices concerning the procedure with those of other treaty bodies, and the secretariat should be encouraged to table reports submitted under the procedure as soon as possible after receipt.

11. **Mr. de Frouville** said that he and Ms. Cleveland had been designated by the Bureau to talk about the lead-up to 2020 when, as stipulated in General Assembly resolution 68/268, it would be necessary to examine "the effectiveness of the measures taken in order to ensure their sustainability, and, if appropriate, to decide on further action to strengthen and enhance the effective functioning of the human rights treaty body system".

12. A number of the provisions contained in resolution 68/268 had brought real improvements to the system. They included the elaboration of an aligned methodology among different treaty bodies, as well as the increased attention paid to reprisals against individuals and groups who contributed to the work of the treaty bodies and the adoption of the Guidelines against Intimidation or Reprisals (the San José Guidelines). Other provisions had had a more questionable impact, notably the mandated increase in meeting time, which could not be fully exploited owing to a lack of personnel within the OHCHR secretariat, and the word limit placed on documents produced by treaty bodies, which had been applied inflexibly and had, at times, complicated the work of the Committee.

13. The question of languages was also making the Committee's task more problematic. Although resolution 68/268 envisaged three official working languages, translations were frequently delayed, meaning that members were obliged to work in a single language, usually English. Similarly, the General Assembly's decision that summary records should be issued in just one working language had had the effect that the records now appeared only in English. United Nations Web TV did not go far in rectifying that shortcoming because the videos it offered were, once again, predominantly in English. Lastly, he wished to point out that many members of the Committee had expressed concerns about the OHCHR website, particularly with regard to the section detailing the work of the different treaty bodies.

14. **Ms. Cleveland** said that the present system of 10 autonomous human rights treaty bodies was beset by multiple challenges such as overlapping mandates, divergent working

methods and lack of coordination, and it could not be sustained in its current configuration over the long term. A report on optimizing the treaty body system, produced by the Academic Platform on the 2020 Treaty Body Review of the Geneva Academy of International Humanitarian Law and Human Rights, included a proposal for an eight-year reporting cycle in which the reports of a single State under the instruments to which it was a party would be clustered in two groups at four-year intervals.

15. Under the proposal, with which the Committee was largely in agreement, each four-year cluster would involve a single coordinated list of issues drafted by the treaty bodies concerned and based on the model of the simplified reporting procedure. The State party would produce a single report in reply to that list of issues and then appear before each of the treaty bodies in separate back-to-back reviews, coordinated in such a way as to eliminate inappropriate overlap. Concluding observations and, subsequently, follow-up could also be coordinated.

16. The proposal had significant potential advantages. It would streamline the obligations of States parties, make their reporting requirements more predictable and reduce their travel requirements. In addition, it would reduce overlaps in reports and recommendations while preserving the specificity of the particular treaties and treaty bodies, and it would help to encourage greater participation by States, including those that currently reported late or not at all. In order for the system to work, States would be expected to fulfil their reporting obligations on time, as was currently the practice under the universal periodic review. The Committee did not agree, however, with one aspect of the proposal, which was to reduce the time allocated for the interactive dialogue from six hours to three. It would not be possible to examine the entire range of civil and political rights in such a short time, particularly with States that were not party to other human rights treaties.

17. As a way of testing the proposal, the Committee was currently exploring the possibility of a joint back-to-back review with the Committee on Economic, Social and Cultural Rights, and it would begin developing a joint list of issues in its next session. The proposal had great potential for maintaining the effectiveness and sustainability of the treaty body system, and she hoped that States would give it serious consideration in the period leading up to the 2020 review.

18. **Mr. Fathalla** said that there was an increasing backlog of individual communications as, despite improved productivity, the number of incoming cases was growing faster than the Committee's ability to deal with them. Furthermore, the extra meeting time allocated had not been matched with additional human resources. The Chair had raised that issue during his recent appearance before the Third Committee of the General Assembly.

19. In the Committee's 13 sessions since the adoption of General Assembly resolution 68/268, it had reached a final decision on 475 individual communications, an average of 36 per session. Nonetheless, 635 communications were still pending. If adequate resources were made available, the secretariat could prepare 268 of them for consideration, and the Committee was ready to meet in dual chambers in order to expedite the process. However, the success of such a move also depended on the availability of human resources within the secretariat.

20. On a positive note, he was pleased to say that the Committee had no backlog of State party reports. Using its available resources, it had managed to consider reports from 88 States parties since the adoption of resolution 68/268 and it was ready to consider a further 18 in 2019. However, the support of States remained crucial because, without a significant increase in the capacity of the secretariat, the Committee's ability to address the backlog of individual communications, and the overall implementation of the Covenant, would continue to be compromised.

21. **Mr. Salama** (Office of the United Nations High Commissioner for Human Rights) said that, in one recent case, the European Court of Human Rights (ECHR) had made use of the Committee's general comments to fill gaps in legal understanding; however, it was a miracle that the Committee was still able to produce such high-quality work. The dilemma it faced was that the General Assembly had decided to grant additional meeting time but

not the corresponding human resources. Thus, OHCHR was unable to provide the material that the Committee needed in order to make best use of the time available to it.

22. General Assembly resolution 68/268, which remained a landmark of clarity, contained parameters with which to assess the workload of treaty bodies and had gone a long way to improving the speed and efficiency of the system. It also included provision for a tool of accountability in the form of a biennial rep. t by the Secretary-General on the status of the treaty body system. The first such report (A/71/118) had been submitted in 2016 and, on the basis of the fluctuating workload calculated using the aforesaid parameters, four treaty bodies, including the Committee, had been allocated more meeting time in 2018–2019, and five had been allocated less.

23. Since the adoption of resolution 68/268, the number of individual communications received had risen but the number of reports from States parties had not. Therefore, the time allocated for reports had been reduced while that allocated for communications had increased across the system; in the case of the Committee, from 4.2 to 10.9 weeks. It was important to bear in mind, however, that processing communications required three or four times more staff than processing reports. The proposals put forward by the Committee were feasible within existing resources if the same logic of rebalancing different tasks, as set forth in resolution 68/268, was applied in the 2020 review.

24. **The Chair** said that 11 additional OHCHR staff positions had been requested but the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the General Assembly had decided to allocate only 5 of them. Thus, the predicament the Committee was facing was that it had extra meeting time but only around 40 per cent of the staff it required to support it.

25. **Mr. Vorobiev** (Russian Federation) said that, in order to facilitate the preparation of his country's periodic report, which was due to be submitted to the Committee in 2019, he wished to ask the secretariat to draft an official Russian translation of the Guidelines for the treaty-specific document to be submitted by States parties under article 40 of the International Covenant on Civil and Political Rights (CCPR/C/2009/1).

26. **Mr. Lobo** (Norway) said that Norway supported the simplified reporting procedure. The list of issues prior to reporting made the review more focused and efficient, particularly if the dialogue took place soon after the submission of the report. He hoped the Committee could share its practices with other treaty bodies in order to harmonize working methods across the system. He wondered whether any thought had been given to other ways of dealing with the backlog of individual communications, even without an increase in human resources. For example, had the Committee considered implementing a policy of prioritization, such as that practised by ECHR?

27. **Mr. Khan** (Pakistan) said that the Geneva Academy report had contemplated two options: a single consolidated review and clustered reviews every four years. Was he right in thinking that the latter was the preferred option of the Committee? He wished to know if the Committee had consulted with the Geneva Academy to express its concerns about the proposed reduction of meeting time from six hours to three. Pakistan supported the right to life but had some serious reservations regarding parts of the Committee's new general comment No. 36.

28. **Ms. Anderson** (Canada) said that her country also preferred the simplified reporting procedure; it would be helpful to have a copy of the digital slide presentation on that procedure. She would appreciate further details about the concerns raised by Mr. de Frouville regarding the OHCHR website. She also wished to know more about the possibility of joint reporting with the Committee on Economic, Social and Cultural Rights, mentioned by Ms. Cleveland, and what role States would have in any decisions that needed to be made, also in the light of the forthcoming 2020 review. Canada had already shared its views on general comment No. 36 and those views remained unchanged.

29. **Ms. Steenbrugghe** (Belgium) said that the challenges faced by the treaty body system had been well expressed in the report of the Secretary-General on the status of the human rights treaty body system. Belgium agreed that the simplified reporting procedure needed to be rolled out across the system as a permanent option. However, its application

needed to be streamlined as, currently, some treaty bodies placed conditions and limitations on the use of the procedure while others did not. The reporting obligations of each State under each treaty should be evenly spread across the reporting calendar. In that regard, the Geneva Academy report on the 2020 review was a good basis for further discussion, with a view to achieving the shared objective of helping States parties better fulfil their obligations while maintaining the integrity and independence of the treaty body system.

30. **Mr. Heinzer** (Switzerland) said that he wished to commend the good practices of the Committee, which served as a blueprint for other treaty bodies. The arguments that had been put forward in favour of the simplified reporting procedure appeared extremely convincing. Switzerland would continue to engage in discussions on the treaty body strengthening system, also in the light of the Geneva Academy report. The proposal to submit reports on an eight-year cycle, although it raised no issues under the Covenant, might be problematic under other treaties that specified the required periodicity of reports.

31. **Ms. Mohamed** (Egypt) said that it was important to provide the Committee with the human and financial resources it needed to fulfil its mandate. General Assembly resolution 68/268 had encouraged the use of the simplified reporting procedure but had left the final decision on whether to do so up to the States themselves. Her country was looking forward to the outcome of the 2020 review, the aim of which was to enhance the efficiency of the treaty body system and to alleviate the workload of States parties. In that regard, Egypt was continuing to reflect on the proposals contained in the Geneva Academy report. General comments, which provided useful guidance for the implementation of the Covenant, should reflect the views of States parties more inclusively. To that end, apart from providing written input on the formulation of new comments, States should also be able to participate in the Committee's oral deliberations.

32. **Mr. Schneider** (Germany) said that his country also looked positively on the simplified reporting procedure. However, it was important to coordinate and harmonize it across all treaty bodies. Germany supported the work done by the Geneva Academy in that regard. In addition, the simplified procedure needed to be explained, not just to States parties but to other actors involved in the reporting process, such as civil society organizations.

33. **Mr. Taranda** (Belarus) said that the meeting with States parties was a good opportunity for the Committee to make its work more accessible to States parties. He would like to know what steps were being taken by the Committee to raise public awareness of the individual communications procedure in States parties, including those that were members of the European Union.

34. **Mr. Okaniwa** (Japan) said that his country appreciated the Committee's efforts to adopt more efficient working methods, such as the simplified reporting procedure, and it supported the idea of clustering the reviews of States parties. He wondered whether the treaty body system would be looked at in relation to the work of other human rights mechanisms, such as the Human Rights Council, in order to avoid duplication of work and ensure more effective results. Lastly, given that there was a limit on the amount of financial and human resources that could be made available to the Committee, he would like to know how the Committee planned to improve its working methods in order to reduce the large and increasing backlog of individual communications.

35. **Ms. Pereira Farina** (Paraguay) said that, in the treaty body strengthening process, it was important to distinguish between structural and non-structural changes and to proceed with caution so as to avoid taking the wrong path. Further dialogue on treaty body strengthening was needed. Paraguay welcomed the introduction of the simplified reporting procedure, which had not jeopardized the quality of the dialogues between States parties and the Committee. Lastly, she wished to know whether the documents produced by the Committee would continue to be translated into Spanish; translation was essential in order to ensure that such documents remained accessible.

36. **Mr. Pfeifer** (Austria), thanking the Committee members for their statements on the 2020 review, said that it would be helpful if the Committee could make those statements publicly available. He wondered whether the Committee had exchanged views with other treaty bodies on the proposals made by the Geneva Academy of International Humanitarian

Law and Human Rights, and whether the treaty bodies planned to establish a common position on the subject.

37. **The Chair** said that the Committee shared the concerns raised by the representative of Paraguay with respect to translation and would do its best to accommodate specific requests from States parties in that regard. Despite the resource constraints that it faced, it was endeavouring to deal with individual communications as quickly as possible. Priority was given to cases of ongoing imprisonment and cases in which interim measures had been requested. The comparison with ECHR was somewhat far-fetched because the Committee had fewer than 5 per cent of the human resources available to ECHR. Japan had made a very helpful contribution by designating a junior professional officer to help the Committee with its work. Since the Committee received hundreds rather than thousands of complaints each year, it needed only a few extra staff members in order to be able to cope with the workload.

38. The Committee believed that an eight-year review cycle was feasible, provided that each State was subject to a comprehensive review, either by a treaty body or in the framework of the universal periodic review, every two years. For that reason, it believed that the clustered review proposal was the best option among those put forward by the Geneva Academy. The Committee was against the idea of shortening the interactive dialogue to three hours because it was committed to ensuring that States parties had enough time to explain their policies in full.

39. All treaty bodies had been asked to complete a questionnaire on the 2020 review, with a view to formulating a common position. The Committee had ascertained that its position on the subject was, on the whole, compatible with that of the Committee on Economic, Social and Cultural Rights. However, it was aware that its views were not shared by all treaty bodies.

40. Under the coordinated reporting procedure, States parties would receive two lists of issues at the same time from two different treaty bodies and they would choose whether to prepare a single report or two separate reports. The rapporteurs responsible for drafting the lists of issues would work together to avoid repetition and the two dialogues would be scheduled consecutively. The Committee believed that the States parties would benefit from such an approach and wished to run a pilot project, with their consent and collaboration.

41. The Committee encouraged all States parties that appeared before it to raise public awareness of the Covenant and the Optional Protocols thereto. Unfortunately, the Committee's ability to effectively disseminate information about its activities via its website and social media was limited by its overall budgetary situation and by the fact that its website was not very user-friendly.

42. **Mr. Heyns** said that the report on the simplified reporting procedure had been edited and translated and would be made available online within a few days. The Committee was keen to align its simplified reporting practices with those of other treaty bodies; the subject would be discussed at a meeting of treaty body representatives in December 2018. In order to speed up its examination of individual communications, the Committee had adopted a repetitive cases procedure whereby communications that dealt with similar legal or factual issues were examined collectively.

43. **Mr. Fathalla** said that the Committee was also planning to start examining communications in dual chambers; however, in order to do so, it required additional resources. It was important to note that the General Assembly did not allocate resources to the Committee specifically, but to the human rights system as a whole, including the 10 treaty bodies. The allocation of resources within that system was a complex issue that needed to be addressed by States parties through their representatives in Geneva and New York.

44. **Mr. de Frouville** said that the French version of the Committee's website was not updated regularly. That problem was linked to the fact that there was no centralized administration of the OHCHR website: the various sections and language versions of the website were managed separately.

45. Although the Committee had worked hard to streamline its practices, the shortage of resources remained an insurmountable obstacle; for example, it was willing to consider communications in dual chambers but the secretariat did not have the capacity to prepare enough communications for consideration. Between 2013 and 2017, the resources allocated to the Human Rights Treaties Branch of OHCHR had remained stable, whereas the number of communications submitted to the Committee had risen by more than 80 per cent.

46. The Committee was aware of the need to collaborate with other treaty bodies in order to align working practices and adopt a common position on the reforms that needed to be undertaken. To that end, it held joint meetings with other treaty bodies whenever possible.

47. **The Chair** said that the Committee did not consider its work to be organically linked to that of the Human Rights Council, since the Council was a political body whereas the Committee was a group of independent experts. However, it did follow the Council's work and take note of States' responses to the Council's recommendations. The universal periodic review calendar was a good model for the Committee to follow, for it allowed States to meet their reporting obligations more easily. The Committee was looking forward to adopting a more structured reporting calendar in 2020 that would allow both the Committee and the States parties to plan their work more easily. He wished to thank the State party representatives for engaging in a constructive exchange of views.

The discussion covered in the summary record ended at 4.45 p.m.